

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Johnnie Frazier, # 265586,

Plaintiff

v.

Warden James Blackwell and Warden Joseph
McFadden, in their individual and official
capacities,

Defendants.

C/A. No. 1:20-3032-CMC

Order

This matter is before the court on Plaintiff's *pro se* Complaint, filed in this court pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights while incarcerated at Lieber Correctional Institution, a facility of the South Carolina Department of Corrections. ECF No. 1. He asserts his Eighth and Fourteenth Amendment rights were violated because his showers, recreation time, and cell cleaning supplies were limited, he was not provided a table and chair in his cell when access to the law library was curtailed, and due to poor drainage in the prison housing unit. *Id.* In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial proceedings and a Report and Recommendation ("Report").

On February 18, 2021, Defendant filed a motion to dismiss for failure to state a claim or, in the alternative, for summary judgment. ECF No. 26. A *Roseboro* Order was mailed to Plaintiff the same day, advising him of the importance of a dispositive motion and the need to file an adequate response. ECF No. 27. Plaintiff filed a motion to compel production of documents and a motion to amend his complaint after Defendants' motion was filed (ECF Nos. 29, 30), which

were denied by the Magistrate Judge (ECF No. 33). Although no briefing in response to the motion to dismiss or for summary judgment was filed, Plaintiff filed declarations with his motion to amend the complaint, discussing his attempts to exhaust administrative remedies. ECF No. 30-1. He also filed a declaration from a fellow inmate about conditions in the housing unit, including lack of access to showers and recreation and lack of drains in the cells. ECF No. 32 (“supplement” to motion to amend complaint, containing declaration of fellow inmate).¹

On March 30, 2021, the Magistrate Judge issued a Report recommending Defendant’s motion, construed as one for summary judgment, be granted. ECF No. 35. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has not filed objections and the deadline to do so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Matthews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but

¹ The Magistrate Judge discussed these declarations in the Report on Defendants’ motion to dismiss or for summary judgment.

instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the complaint, the motions, the applicable law, the record, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

Defendant’s motion for summary judgment (ECF No. 26) is granted, and this matter is dismissed with prejudice.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
April 27, 2021